REMARKS

Claims 1-23 are pending in the application. Claims 1-23 are rejected.

Applicant's claims 1 and 2 recite that "an encapsulating unit for <u>encapsulating the specified data packets defined as a QoS Guarantee target on the basis of address of QoS guaranteeing apparatuses</u> existing on the sides opposite to each other in a QoS guarantee target area in an IP packet switching network so that a set of the traffic appear as if being one session."

It is respectfully submitted applicant's claimed invention is different from the prior art for several reasons described below including the fact that "3.1. Tunnel Based Aggregation" fails to disclose or suggest encapsulating <u>the specified data packets defined as a QoS Guarantee target on the basis of address of QoS guaranteeing apparatuses</u>.

Claims 1-17, 19, 22 and 23 are rejected under 35 U.S.C. 103 as being unpatentable over U.S. Patent to Chuah et al. (6,519,254) in view of "Aggregating RSVP-based QoS Requests" by Guerin.

In the Office Action it's assert that it may not be clear from Chuah that an encapsulating unit 204 and decapsulating unit 207, as claimed by applicant, are clearly disclosed by Chuah. The Office Action argues that it would have been obvious to provide functional units to aggregate the traffic so that a set of traffics appear as if being one session.

The Office Action provides the Guerin article to support this statement and to show that encapsulation of data packets has been known. In particular section 3.1 Tunnel Based Aggregation of Guerin is utilized to argue that it is known to capsulate data packet.

2

However in contrast to applicant's claimed invention, 3.1. Tunnel Based Aggregation of Guerin discloses that "packets (data and control) belonging to the corresponding RSVP flows are encapsulated in <u>IP packets with an IP destination address</u>".

This is different from applicant's claimed invention as pointed out above. In particular, the cited reference fails to disclose or suggest encapsulating the specified data packets defined as a QoS Guarantee target on the basis of address of QoS guaranteeing apparatuses.

In Guerin, lines 3-6 of the "3.1. Tunnel Based Aggregation," "the corresponding RSVP flows are encapsulated in IP packets." Guerin clearly relies on the RSVP flows being encapsulated in IP packets. The flow of RSVP is described in REC2205 (Resource Protocol (RSVP)-Version 1 Functional Specification as follows:

1.1. Data Flows

RSVP defines a "session" to be a data flow with a particular destination and transport-layer protocol. RSVP treats each session independently, and this document often omits the implied qualification "for the same session".

An RSVP session is defined by the triple: (DestAddress, Protocol ld [. DstPort]). Here DestAdress, the IP destination address of the data packets, may be a unicast or multicast address. Protocol id is the IP protocol ID.

3

That is, the flow in RSVP indicates a set of packets that are discriminated by destination address, protocol ID, and destination port of TCP or UDP.

Therefore there is no disclosure or suggestion in the "3.1. Tunnel Based Aggregation" of encapsulating the specified data packets defined as a QoS Guarantee target on the basis of address of QoS guaranteeing apparatuses. Applicant's claimed invention is not suggested by the combination of references.

Further, there is no motivation to make such a combination of cited references because Chuah teaches away from Guerin because the method in Chuah cannot operate when one or more network devices exist between TSP and TDP. Chuah et al. teaches (col. 3, lines 23-26) that it is possible to carry end-to-end RSVP session over an RSVP tunnel, which is just an RSVP session with the TSP as a sender and the TDP as a receiver. TSP and TDP are shown in Fig. 3 which is the only figure of the Chuah et al. disclosure which shows a network per se.

Because Guerin teaches Tunnel Based Aggregation it would be impossible for intermediate devices between TSP and TDP in Chuah to reserve resources such as bandwidth for the flow in RSVP. Simply the method of Chuah is impossible because of tunneling.

Should the Examiner still deem the applicant's combination of features to still be obvious a new reference is requested showing that it would have been obvious to provide functional units to aggregate the traffic so that a set of traffics appear as if being one session as there is no motivation to make such a combination as proposed in the Office Action.

4

The only such suggestion provided has been from applicant's own disclosure because Chuah leads one skilled in the art away from Guerin. Because there is no suggestion which would lead one skilled in the art to make such a combination of prior art even if all the elements were present in the cited references,It is well-established that a combination of limitations, some of which separately may be known, may be a new combination of limitations which is nonobvious under the condition of 35 U.S.C. 103.

Moreover, "an examiner may often find every element of a claimed invention in the prior art." In re Rouffet, 47 USPQ3d 1453, 1457 (Fed. Cir. 1998) (reversing PTO obviousness rejection based on lack of suggestion or motivation to combine reference). Therefore even if every element of a claimed invention is in the combined prior art there must be some suggestion or motivation to combine the references. "Although a reference need not expressly teach that the disclosure contained therein should be combined with another, the showing of combinability, in whatever form must nevertheless be 'clear and particularity.'" In re Dembiscak, 175 F.3d 994, 999 (CAFC 1999).

Chuah provide a method to improve a resource reservation method itself of RSVP. In contrast, the present invention is directed to an IP communication network system for guarantee a quality of a set of specified data packets for. Accordingly, the objective and method of Chuah are entirely different from that of the present claimed invention.

It is respectfully requested the rejection be withdrawn for at least the foregoing reasons.

Claim 18 is rejected under 35 U.S.C. 103 as being unpatentable over Chuah et al. in view of Guerin and further in view of Harrison et al. U.S. Patent (6,091,709). Claims
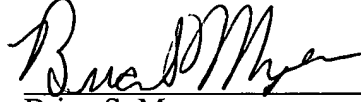
5

41299810.01

20-21 are rejected under 35 U.S.C. 103 as being unpatentable over Chuah et al. in view of Guerin et al., and further in view of "Stage Refresh Timers for RSVP "by Pan et al.

Likewise these rejections should be withdrawn for at least the foregoing reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully respected. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

Brian S. Myers
Reg. No. 46,947

CUSTOMER NUMBER 026304
Telephone: (212) 940-8703
Fax: (212) 940-8986/8987
Docket No.: FUJY 17.397 (100794-11428)
BSM:fd

6